

16 November 1983

Jack C. Landau

# Let's Exempt CIA From Mission Hurting Laws

Newhouse News Service

WASHINGTON — Almost a decade ago, the stories coming out of the Watergate scandal included disclosures of involvement by the CIA and later of other domestic political interference by the intelligence agency.

This information became public in different ways — through the Watergate prosecutions, congressional investigations and use by scholars and the press of the federal Freedom of Information Act.

The CIA started worrying about what would happen in the future. It couldn't do much about the court system. But it could try to convince Congress to change the federal law and eliminate some of the oversight committees established to monitor CIA activities.

Former CIA Director Stansfield Turner believed that eliminating these watchdog panels would be the easier of the two steps. But he was wrong. Congressmen like to be brought in on the super-secrets of the CIA.

So the agency turned its attention to the Freedom of Information Act. That law allows any citizen to request information from the government, as long as the information is not covered by a special exemption.

The CIA has a very broad right to withhold all information not properly classified in the interests of national security. This means that the only information it has to release is information that is improperly classified. The main category of information here is information about CIA activities that are unlawful or in violation of various directives because the agency cannot properly classify its own illegal actions.

For example, cases have shown that the CIA has been in secret partnerships with American corporations active in foreign countries to attempt to overthrow their governments. Similarly, the CIA has forced anti-Soviet soldiers to go back to Russia when it was known they would be executed, and it planned an assassination of Cuban leader Fidel Castro.

It certainly can be argued that this country has an intelligence agency for the purpose of overthrowing foreign governments, or killing hostile foreign leaders, or sending foreign nationals to their deaths in order to maintain good relations with the foreign government. And if the legal assumption is that we want the CIA to have these powers, then Congress simply ought to exempt the agency from having to obey any federal laws.

The difficulty is that Congress has imposed on the agency the requirement that it stay out of domestic politics, for example, and that it not attempt to overthrow foreign governments.

The CIA is willing to take the risk of breaking congressional legislation in order to carry out its mandate, but it is constrained by the knowledge that some of these illegal activities — probably only 1 percent — become public through the federal information act.

So instead of facing the issue squarely and asking to be exempted from obeying the federal criminal laws and congressional policies, the agency is asking to be exempted from the federal information act — almost the only lawful way to inform the public that it is breaking the law.

The first step of this process will take place next month when the Senate is expected to approve a bill introduced by Sen. Barry Goldwater, R-Ariz., to exempt the "operational" files of the CIA from all requests under the federal information act.

The bill, which will probably be agreed to by the House early next year, includes allowing the CIA to suppress all information on "foreign intelligence, counter-intelligence or counter-terrorism." That would cover all the operations in Central America, for example, and in Africa.

When a member of the Senate Intelligence Committee staff recently appeared before a group of media executives, he was asked how the CIA could justify wanting the right to suppress information showing that the agency is violating the law.

He answered that if the agency discovers that one of its employees or programs is in violation of federal law, then the agency will undertake an investigation of itself. If the agency finds itself guilty, then it will make the results public.

As an alternative, he suggested that the agency would disclose to Congress that it had violated the law and urge Congress to conduct an investigation of itself.

That is simply, of course, a fairy tale. No agency — whether it is the Justice Department or the Bureau of the Census — is going to voluntarily invite Congress to investigate its own misbehavior or is going to conduct impartial internal investigations of itself and then release the information to the public.

The problem is simple: This is a nation of laws — not of men. The solution is not to secretly encourage the CIA to act like criminals and then cover up their wrongdoing by suppressing the information.

The solution is simply to exempt the agency from having to obey those laws which it finds obstructive to its mission.

*Jack Landau is executive director of the Reporters Committee for Freedom of the Press.*

320